

REMARKS

In supplemental response to the non-final Office action of February 12, 2004, applicant asks that all claims be allowed in view of the amendment to the claims and the following remarks. This response supplements the response filed on August 12, 2004, which canceled claim 1 and added a new claim mistakenly also identified as claim 2 and now identified in the claim listing as claim 33. This supplemental response cancels claim 33 (that was previously identified as newly added claim 2 in the response filed on August 12, 2004) and adds claim 34. New claim 34 includes identical language to claim 1 that was cancelled in the response filed August 12, 2004. Claims 2-5 have been amended to depend from new claim 34.

Claims 2-32 and 34 are now pending, of which claims 34, 13 and 16 are independent. As noted previously, claim 33 has been cancelled, claim 34 has been added, and claims 2-5 have been amended. Applicant asserts that no new matter is added.

Independent claims 1, 13 and 16 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Smith (U.S. Patent No. 5,790,790) in view of Ishibashi (European Patent Application EP 0 812 100 A2). With the cancellation of claim 1, the rejection of claim 1 is now moot. However, new claim 34 recited claim language identical to previously cancelled claim 1 and, for clarity, new claim 34 is discussed here before the rejected claims are discussed.

With respect to claim 34, applicant requests allowance because neither Smith, Ishibashi, nor any combination of the two describes or suggests having a sending system transmit a notification to a receiving system, with the notification signifying that the sending system is transmitting the digital information over the network to the server system, and that the digital information may be accessible by the receiving system at the server system without accessing the sending system, as recited in claim 34.

The rejection concedes that Smith does not teach that the sending system transmits both the digital information to a server system and a notification to a receiving system. The rejection then relies on Ishibashi to remedy this failure of Smith. However, Ishibashi does not describe or suggest a sending system that transmits to a receiving system a notification signifying that the sending system is transmitting the digital information over the network to the server system, as recited in claim 34.

Specifically, Ishibashi discloses a communication device that sends an electronic mail transmission over a network to a server. See Ishibashi at page 4, line 56 – page 5, line 35. After

the transmission of the electronic mail message to the server, the communication device sends a facsimile notification that the electronic mail message has been sent. See Ishibashi at page 6, lines 19-29 and page 7, lines 19-20.

Since the communication device sends the notification facsimile after transmitting the digital information (i.e., the electronic mail message), the notification message necessarily would not signify that the sending system is transmitting digital information that may be accessible at the server system. Rather, the message would, at best, indicate that the sending system transmitted digital information that may be accessible at the server system.

As such, Ishibashi does not disclose or suggest “a sending system connected to the network and transmitting a notification to the receiving system, the notification signifying that the sending system is transmitting the digital information over the network to the server system and that the digital information may be accessible by the receiving system at the server system,” as recited in claim 34, and, accordingly, does not remedy the failure of Smith to describe or suggest the subject matter of claim 34.

The rejection notes that “Ishibashi teaches that a notification to the recipient from the sender is sent ‘almost simultaneous’ with the transmission of the message to the server” at page 2, lines 42-59. See Office action of February 12, 2004 at page 7, lines 1-3. In particular, Ishibashi discloses that because “transmission of electronic mail to a computer network is notified to the receiving side almost simultaneous with the transmission of the mail, the receiving side can quickly be aware that electronic mail has been transmitted.” See Ishibashi at page 2, lines 46-48 (emphasis added). As such, Ishibashi discloses the closeness in time of the transmission of the message to the server to the time of the transmission of the notification to the recipient – that is, that the transmission of the message to the server is made almost simultaneously to the transmission of the notification to the recipient. However, Ishibashi also discloses in the cited portion that the notification to the receiving side enables the receiving side to be made quickly aware that the “electronic mail has been transmitted.” According to the plain text, Ishibashi discloses a notification that the electronic mail has been transmitted. Thus, Ishibashi does not describe a notification signifying that the sending system is transmitting the digital information over the network to the server system and that the digital information may be accessible by the receiving system at the server system. See also Ishibashi at FIG. 11 (showing a transmission notification report stating: “This is to inform you that an e-mail message has been sent.”).

Applicant : Hiroshi KOBATA et al.
Serial No. : 09/258,609
Filed : February 26, 1999
Page : 10 of 10

Attorney's Docket No.: 11365-008001 /
EPC-009 (2115/13)

For at least these reasons, applicant requests allowance of independent claim 34. Claims 2-12 are directly or indirectly dependent upon claim 34. At least for the reasons of that dependency and the reasons described above with respect to claim 34, applicant requests reconsideration and withdrawal of the rejection of claims 2-12.

Similarly to independent claim 34, amended claims 13 and 16 each recite a sending system transmitting a notification using a network to a receiving system, with the notification signifying that the sending system is transmitting the digital information over the network to the server system, and that the digital information may be accessible to the receiving system at the server system without accessing the sending system. Accordingly, for the reasons noted above with respect to claim 34, applicant requests withdrawal of the rejection of claims 13 and 16, and their dependent claims 14, 15 and 17-32.

It is believed that all of the pending issues have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this reply should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this reply, and the amendment of any claim does not necessarily signify concession of unpatentability of the claim prior to its amendment.

No fee is believed due. Please apply any other charges or credits to deposit account 06-1050.

Respectfully submitted,

Date: August 23, 2005

Barbara A. Benoit

Barbara A. Benoit

Reg. No. 54,777

Customer No. 26171
Fish & Richardson P.C.
1425 K Street, N.W.
11th Floor
Washington, DC 20005-3500
Telephone: (202) 783-5070
Facsimile: (202) 783-2331
40297541.doc